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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,444	05/31/2001	Thomas W. Nickerson	1958.2010-000(OID-2001-02	8887
21005	7590	07/27/2005	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133			AVELLINO, JOSEPH E	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/871,444

Applicant(s)

NICKERSON, THOMAS W.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-25 are pending in this examination; claims 1, 7, 13, 19, and 25 independent. The Office acknowledges the cancellation of claims 26 and 27.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 31, 2005 has been entered.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-24 are rejected under 35 U.S.C. 101 because they are drawn to non tangible embodiments. See MPEP 2106 regarding tangible embodiments for computer related claims.

Claims 13-24 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 18 line 25 to page 19, line 5, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g. a readable memory device such as a hard drive, ROM, or RAM) and intangible

embodiments (e.g. communications or transmission medium). As such, the claim is not limited to statutory subject matter and is therefore non-statutory. Applicant is required to amend the claim. A suggestion by the Office would be to amend "computer-usable medium" to "readable memory device".

Claims 19-24 are drawn to a computer data signal, which is not a tangible embodiment. Applicant is required either to amend the claim as to not include non-statutory subject matter or cancel the claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-25 either directly or indirectly recite the limitation "a unique identifier". It is unable to be determined from the scope of the claim what is necessary to make an identifier "unique". Correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-10, 12-16, 18-22, and 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakajima (USPN 6,892,240).

6. Referring to claim 1, Nakajima discloses a method for displaying dynamic page content in a page-caching browser capable of loading content for display from a cache, the method comprising:

specifying an address to stored content at a source (i.e. URL/hyperlink) (col. 8, lines 25-45);

at a browser application (i.e. at the client communication device 612), inserting a unique identifier to the address, the appended identifier being unique for each request of the content, the unique identifier preventing the browser from loading the content from a cache (i.e. HTTP Proxy 620 recognizes this as a new document request, causing the cache service to be avoided) (col. 8, lines 30-45);

transmitting a content request with the address and the appended identifier to retrieve the stored content from the source regardless of whether the browser is configured to load content from the cache (the browser never finds the selected URL within its disk cache) (col. 8, lines 30-45).

7. Referring to claim 2, Nakajima discloses the address includes a URL (i.e. `http://httpserver.internet/document/`) to content of at least a portion of a web page (col. 8, lines 30-45).
8. Referring to claim 3, Nakajima discloses the address includes a query string, the unique identifier appended to the address in the query string (an HTTP GET command, which is used in Nakajima to retrieve the resource identified by the URL is inherently a query string, since it queries the server to determine if the resource is there, and if so, returns the resource, and if not, returns an HTTP error message) (col. 8, lines 30-45).
9. Referring to claim 4, Nakajima discloses the unique identifier is a random number (i.e. temporary unique character string) (col. 8, lines 35-45).
10. Referring to claim 6, Nakajima discloses the unique identifier is an alpha-numeric representation (i.e. `temp11223344HTTP/1.0` is an alpha-numeric representation) (col. 8, lines 30-45).
11. Claims 7-10, 12-16, 18-22, and 24-25 are rejected for similar reasons as stated above.

Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 5, 11, 17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima in view of Lambert et al. (US 2002/0038350) (hereinafter Lambert).

13. Referring to claim 5, Nakajima discloses the invention substantively as described in claim 1. Nakajima does not specifically state the unique identifier is a timestamp. In analogous art, Lambert discloses another method for displaying dynamic page content wherein the unique identifier is a timestamp (p. 11, ¶ 230). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Lambert with Stedman in order to generate what appears to be a unique marker reference for each access of the markers, seen by the caching software as a unique URL as supported by Lambert (p. 11, ¶ 230) and is also supported by Stedman stating that the unique identifiers ensure that the web browser never finds the selected URL in the disk cache (p. 19, lines 5-10).

Claim Rejections - 35 USC § 102

Claims 1-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Lambert.

14. Referring to independent claims 1, 7, 13, 19, and 25 (e.g. exemplary claim 1) Lambert discloses specifying an address (p. 11, ¶ 230), at a browser application, inserting a unique identifier into the address to prevent the browser from loading the content from the cache (the javascript code to generate the timestamp is executed in the client browser, and therefore is considered inserted at the browser application) (p. 11, ¶ 230), and transmitting the content request with the unique identifier (p. 11, ¶ 228-231).

15. Referring to claims 2-6, 8-12, 14-18, and 20-24, they are all inherent variations of the system described in the independent claims.

Response to Arguments

16. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

18. Applicant has had numerous opportunities to amend the claimed subject matter, and has failed to modify the claim language to distinguish over the prior art of record by clarifying or substantially narrowing the claim language. Thus, Applicant apparently intends that a broad interpretation be given to the claims and the Examiner has adopted such in the present and previous Office action rejections. See *In re Prater and Wei*, 162 USPQ 541 (CCPA 1969), and MPEP 2111.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEA
July 21, 2005



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